

REFERENCE TITLE: adoption

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2696

Introduced by
Representatives Tully: Anderson, Murphy

AN ACT

AMENDING SECTIONS 8-103 AND 8-105, ARIZONA REVISED STATUTES; RELATING TO ADOPTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 8-103, Arizona Revised Statutes, is amended to
3 read:

4 8-103. Who may adopt; presumed preference; findings

5 A. Any adult resident of this state, whether married, unmarried or
6 legally separated is eligible to qualify to adopt children. A husband and
7 wife may jointly adopt children.

8 B. PURSUANT TO RULES ADOPTED BY THE DIVISION, THE DIVISION OR AN
9 AGENCY SHALL PLACE A CHILD WHO IS IN THE CUSTODY OF THE STATE AND WHO IS
10 AVAILABLE FOR ADOPTION WITH ANY PERSON WHO IS QUALIFIED TO ADOPT SUBJECT TO
11 THE FOLLOWING:

12 1. THE DIVISION OR AGENCY MUST GIVE PRIMARY CONSIDERATION TO THE
13 APPLICATIONS OF A MARRIED COUPLE.

14 2. THE DIVISION MAY CONSIDER AN APPLICATION TO ADOPT SUBMITTED BY A
15 SINGLE PERSON ONLY IF A QUALIFIED MARRIED COUPLE HAS NOT SUBMITTED AN
16 APPLICATION UNLESS ANY OF THE FOLLOWING APPLIES:

17 (a) THE APPLICANT IS A LEGAL RELATIVE OF THE CHILD.

18 (b) THE ALTERNATIVE FOR THE CHILD IS EXTENDED FOSTER CARE.

19 (c) A MEANINGFUL AND HEALTHY RELATIONSHIP BETWEEN THE APPLICANT AND
20 THE CHILD HAS ALREADY BEEN ESTABLISHED.

21 (d) THE CHILD'S BEST INTEREST REQUIRE THE ADOPTION BY THE SINGLE
22 PARENT.

23 (e) THE ADOPTION IS THE RESULT OF A DIRECT PLACEMENT ADOPTION.

24 C. IN EACH ADOPTION PROCEEDING THE COURT SHALL MAKE A SPECIFIC FINDING
25 REGARDING THE BEST INTEREST OF THE CHILD PURSUANT TO THIS SECTION.

26 Sec. 2. Section 8-105, Arizona Revised Statutes, is amended to read:

27 8-105. Preadoption certification; investigation; central
28 adoption registry

29 A. Before any prospective adoptive parent may petition to adopt a
30 child the person shall be certified by the court as acceptable to adopt
31 children. A certificate shall be issued only after an investigation
32 conducted by an officer of the court, by an agency or by the division. A
33 written application for certification shall be made directly to the court, to
34 an agency or to the division, in the form and content required by the court,
35 agency or division.

36 B. The division is not required to accept every application for
37 certification. In determining which applications to accept the division ~~may~~
38 ~~MUST~~ give priority to applications filed JOINTLY by A HUSBAND AND WIFE WHO
39 ARE ADULT RESIDENTS OF THIS STATE. THE DIVISION MAY GIVE SECONDARY PRIORITY
40 TO adult residents of this state who wish to adopt a child who has any of the
41 special needs described in section 8-141.

42 C. After receiving and accepting the written and completed application
43 of the prospective adoptive parent or parents, which shall include a
44 financial statement and a physician's statement of each applicant's physical
45 health, the division, the agency or an officer of the court shall conduct or

1 cause to be conducted an investigation of the prospective adoptive parent or
2 parents to determine if they are fit and proper persons to adopt children.

3 D. The division shall not present for certification a prospective
4 adoptive parent unless that person has a valid fingerprint clearance card
5 issued pursuant to title 41, chapter 12, article 3.1 or provides to the
6 division documentation of the person's application for a fingerprint
7 clearance card. The prospective adoptive parent must certify on forms that
8 are provided by the division and that are notarized whether the prospective
9 adoptive parent is awaiting trial on or has ever been convicted of any of the
10 criminal offenses listed in section 41-1758.03, subsections B and C in this
11 state or similar offenses in another state or jurisdiction.

12 E. An officer of the court may obtain a state and federal criminal
13 records check pursuant to section 41-1750 and Public Law 92-544. The
14 department of public safety may exchange this fingerprint data with the
15 federal bureau of investigation.

16 F. This investigation and report to the court shall consider all
17 relevant and material facts dealing with the prospective adoptive parents'
18 fitness to adopt children and shall include:

- 19 1. A complete social history.
- 20 2. The financial condition of the applicant.
- 21 3. The moral fitness of the applicant.
- 22 4. The religious background of the applicant.
- 23 5. The physical and mental health condition of the applicants.

24 6. Any court action for or adjudication of child abuse, abandonment of
25 children, dependency or termination of parent-child relationship in which the
26 applicant had control, care or custody of the child who was the subject of
27 the action.

28 7. Whether the person or persons wish to be placed on the central
29 registry established in subsection M of this section.

30 8. All other facts bearing on the issue of the fitness of the
31 prospective adoptive parents that the court, agency or division may deem
32 relevant.

33 G. The investigator shall not reveal to the prospective adoptive
34 parents the identity of a child or the child's parent or parents and shall
35 not reveal to the child or the child's parent or parents the identity of the
36 prospective adoptive parents if these facts are not already known.

37 H. Within ninety days after the original application prescribed by
38 subsection A of this section has been accepted, the division or the agency or
39 a person or agency designated by the court to conduct an investigation shall
40 present to the juvenile court the written report required by subsection F of
41 this section, which shall include a definite recommendation for certifying
42 the applicant as being acceptable or nonacceptable to adopt children with the
43 reasons for the recommendation.

44 I. Within sixty days after receiving the investigation report required
45 by subsections F and H of this section, the court shall certify the applicant

1 as being acceptable or nonacceptable to adopt children based on the
2 investigation report and recommendations of the report. A certification
3 remains in effect for eighteen months from the date of its issuance and may
4 be extended for additional one year periods if after review the court finds
5 that there have been no material changes in circumstances ~~which~~ THAT would
6 adversely affect the acceptability of the applicant to adopt.

7 J. The court may require additional investigation if it finds that
8 additional information is necessary on which to make an appropriate decision
9 regarding certification.

10 K. Any applicant who has been certified as nonacceptable may petition
11 the court to review ~~sueh~~ THAT certification. Notice shall be given to all
12 interested parties and the matter shall be heard by the court, which may
13 affirm or reverse the certification.

14 L. If the applicant is certified as nonacceptable, the applicant may
15 not reapply for certification to the court, to any agency or to the division
16 for one year.

17 M. The division shall maintain a central adoption registry that
18 includes the names of all prospective adoptive parents currently certified by
19 the court as acceptable to adopt children, except those who request that
20 their names not be included, the names of all children who are under the
21 jurisdiction of the division and who are currently available for adoption,
22 the names of any other children who are currently available for adoption and
23 whose names are voluntarily entered in the registry by any agency, parent or
24 other person that has the right to give consent to the child's adoption, and
25 other information as the division may elect to include in aid of adoptive
26 placements. Access to information in the registry shall be made available on
27 request to any agency under assurances as the division may require that the
28 information sought is in furtherance of adoptive placements and that
29 confidentiality of the information is preserved.

30 N. This section does not apply if:

31 1. The prospective adoptive parent is the spouse of the birth or legal
32 parent of the child to be adopted or is an uncle, aunt, adult sibling,
33 grandparent or great-grandparent of the child of the whole or half-blood or
34 by marriage or adoption.

35 2. The birth or legal parent is deceased but at the time of death the
36 parent had legal and physical custody of the child to be adopted and the
37 child had resided primarily with the spouse of the birth or legal parent
38 during the twenty-four months before the death of the parent.

39 3. The grandparent, great-grandparent, aunt, adult sibling or uncle is
40 deceased but at the time of death that person had legal and physical custody
41 of the child to be adopted and the child had resided primarily with the
42 spouse of the grandparent, great-grandparent, aunt, adult sibling or uncle
43 during the twenty-four months before the death of the grandparent,
44 great-grandparent, aunt, adult sibling or uncle.

1 0. If the applicant has adopted a child within three years preceding
2 the current application and is applying to adopt another child or is a foster
3 parent who is licensed by this state, the division or agency or a person
4 designated by the court to conduct an investigation shall only provide an
5 update report on any changes in circumstances that have occurred since the
6 previous certification or licensing report. If the applicant has adopted a
7 child more than three years before the current application and is applying to
8 adopt another child, the division or agency or a person designated by the
9 court to conduct an investigation may provide an updated report on any
10 changes in circumstances that have occurred since the previous certification
11 or licensing report. The court shall certify the applicant as acceptable to
12 adopt unless there are changes in circumstances that adversely affect the
13 applicant's parenting ability. In making this determination, the court shall
14 consider information from the prior certification or licensing report.